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NATIONAL ENERGY BOARD REASONS FOR DECISION

Manitoba Oil and Gas Corporation

Application Dated 25 May 1987, as Amended, for
Orders Directing TransCanada PipeLines Limited
to Receive, Transport and Deliver
Natural Gas and Fixing Tolls

MH-1-87

September 1987



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Cat. No. NE22-1/1987-10E
ISBN 0-662-15671-4

**This report is published separately
in both official languages.**

Copies are available on request from:

Regulatory Support Office
National Energy Board
473 Albert Street
Ottawa, Canada
K1A 0E5
(613) 998-7204

**Ce rapport est publié séparément
dans les deux langues officielles.**

Exemplaires disponibles auprès du:

Bureau du soutien de la réglementation
Office national de l'énergie
473, rue Albert
Ottawa (Canada)
K1A 0E5
(613) 998-7204

(i)

IN THE MATTER OF the National Energy Board Act and the Regulations made thereunder;

AND IN THE MATTER OF an Application by Manitoba Oil and Gas Corporation ("MOGC"), as agent for and on behalf of residential, commercial and industrial consumers of natural gas in Manitoba as may be designated by the Lieutenant Governor in Council for the Province of Manitoba from time to time, for Interim and Final Orders pursuant to Sections 11, 12, 16.1, 17, 50, 51, 53 and 59 of the Act directing TransCanada PipeLines Limited ("TCPL") to receive, transport, and deliver natural gas offered by MOGC by means of a pipeline owned and operated by TCPL and fixing the tolls that TCPL may charge for such service.

AND IN THE MATTER OF the National Energy Board Directions on Procedure MH-1-87.

Heard at Winnipeg, Manitoba on 9, 10, 11, 14 and 15 September 1987.

BEFORE:

A.B. Gilmour	Presiding Member
J. Farmer	Member
R.B. Horner, Q.C.	Member

APPEARANCES:

A.R. Thompson J.D. Rooke R.G. Shead H.C.R. Clark	Manitoba Oil and Gas Corporation
C.K. Yates	Canadian Petroleum Association
A.S. Hollingworth	Independent Petroleum Association of Canada
H.M. Kay	Direct Energy Marketing; Enron Canada Ltd.; Northridge Petroleum Marketing, Inc.; and Simplot Chemical Company Ltd.
Gerald Finkle	Energy Brokers Canada Inc.
George Finkle	On his own behalf
L-C. Lalonde	Gaz Métropolitain, inc.
J.D. Brett	Greater Winnipeg Gas Company; and ICG Utilities (Manitoba) Ltd.
J. Hopwood, Q.C.	NOVA CORPORATION OF ALBERTA

(ii)

H.H. Range	Poco Petroleum Ltd.
N.W. Boutillier	ProGas Limited
K.D. Wellman, Q.C.	Saskatchewan Power Corporation
P.A. Knack	Joseph E. Seagram & Sons, Limited
J.H. Farrell	The Consumers' Gas Company Ltd.
D. Brown, Q.C. G. Goldlist	TopGas Holdings Limited and TopGas Two Inc.
J.W.S. McOuat, Q.C. R.A.M. Young, Q.C. P. Hayvren	TransCanada PipeLines Limited
G.J. Pratte	Union Gas Limited
A. Trawick S. McAllister	Alberta Petroleum Marketing Commission
W.C. Gardner D. Munro	Manitoba Public Utilities Board
P.D. Morris	Minister of Energy for Ontario
J. Robitaille	Le Procureur général du Québec
S.K. Fraser	Board Counsel

Table of Contents

Recitals and Appearances	(i)
Abbreviations and Glossary of Terms	(iv)
1. Background	1
2. The Application	2
3. Public Interest and Self-Displacement	3
4. Reasons for Decision	6
5. Disposition	8

Appendices

1. Directions on Procedure, MH-1-87	9
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Abbreviations and Glossary of Terms

Demand Charges	A monthly charge which covers the fixed costs of a pipeline. The demand charge is based on the daily contracted or operating demand volumes and is payable regardless of the volumes taken.
Displacement Proviso	A provision formerly in TransCanada PipeLines Limited's tariffs which denied transportation services to a shipper of gas which would displace gas being supplied under a contract by TransCanada.
Double Demand Charges	Occur when a customer, who previously purchased gas through a distributor, arranges an alternative supply through a direct purchase and, as a result, is required to pay the demand toll twice; once to TransCanada for transportation services and once to its distributor as indemnity for unabsorbed demand charges which occur as a result of the displacement.
IS	Interruptible Service. Transportation service or sales service provided on a best-effort basis depending upon the availability of spare capacity on a pipeline. The shipper or buyer must pay a commodity charge related to the volume taken.
Operating Demand Methodology	A system of toll design and fixed cost allocation for a pipeline based on daily operating demand volumes rather than on daily contracted demand volumes.
Operating Demand Volume	The daily demand volume of a shipper or a buyer which takes into account any displacement volumes. The volume may be equal to or less than the contracted demand specified in a contract with the transporter. For example, a distributor's operating demand volume is the contracted demand, as specified in the distributor's CD contracts with TransCanada, less the total amount by which the distributor's CD volumes have been displaced.
RH-5-85 Reasons for Decision	National Energy Board Reasons for Decision In the Matter of TransCanada PipeLines Limited, Availability of Services - May 1986.
RH-3-86 Reasons for Decision	National Energy Board Reasons for Decision, TransCanada PipeLines Limited, Application dated 14 July 1986 for New Tolls Effective 1 January 1987 - May 1987.
STT	Short-Term Transportation Service. A short-term firm transportation service available for a period of one to three years.

(v)

- T-PS Transportation-Peaking Service. A transportation service whereby the pipeline company agrees to carry a designated volume of gas for a shipper during the winter season and for which the shipper pays a transportation charge. The service is not subject to interruption and includes a take-or-pay provision.
- T-TWS Transportation-Temporary Winter Service. A transportation service whereby the pipeline company agrees to carry a designated volume of gas for a shipper during the winter season and for which the shipper pays a transportation charge. The service is subject to limited interruption and includes a take-or-pay provision.



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Chapter 1

Background

Manitoba Oil and Gas Corporation ("MOGC" or "the Applicant") is a corporation pursuant to the provisions of the *Manitoba Oil and Gas Corporation Act*, C.C.S.M., c. 034. MOGC is actively involved in the exploration, development and production of petroleum resources in Manitoba. It has been authorized by legislation to act as agent for, and to arrange for the purchase and distribution of natural gas to "the principals" which comprise all present and future members of residential, commercial and industrial classes of consumers of natural gas in Manitoba, except such members as may elect to terminate the agency of MOGC.

MOGC, as agent for the principals, has entered into direct natural gas purchase contracts with producers

and marketers in British Columbia, Alberta and Saskatchewan for the purchase of volumes of gas to be shipped to its principals in Manitoba. To effect these direct purchase contracts, the Applicant requires transmission of the gas volumes on the TransCanada PipeLines Limited ("TCPL") system. The Applicant acknowledges that the gas volumes contemplated for transportation would displace volumes presently being purchased by the principals in Manitoba from ICG Utilities (Manitoba) Ltd. ("ICG"), and Greater Winnipeg Gas Company ("GWG"). Negotiations with TCPL to obtain transportation service were not successful; accordingly, the Applicant applied to the National Energy Board ("the Board") for orders of the Board pursuant to subsection 59(2) of the *National Energy Board Act* ("the Act").

Chapter 2

Application

By an application dated 25 May 1987, as amended on 6 July 1987, 12 August 1987 and 2 September 1987, MOGC, as agent for and on behalf of residential, commercial and industrial classes of consumers of natural gas in Manitoba, applied to the Board for final orders or interim orders directing TCPL to receive, transport and deliver natural gas offered by MOGC for consumption in Manitoba and fixing the just and reasonable tolls that TCPL may charge for such services.

The Applicant indicated that it required the following transportation services from TCPL:

- (a) term: not to exceed 3 years from the date of first deliveries pursuant to an Order of the Board
- (b) volume and type of service:
 - (i) short term (STT-M and STT-S) and interruptible (IS-1-M and IS-1-S) transportation service - 8 001.7 10^3m^3 (282.467 MMcf) and 225.0 10^3m^3 (7.943 MMcf) in the Manitoba and Saskatchewan Zones of TCPL's pipeline system respectively, for a total of 8 226.7 10^3m^3 (290.410 MMcf) per day at a maximum from on or about No-

vember 1, 1987, to on or about October 31, 1990;

(ii) transportation-temporary winter service (T-TWS-M) - 957.5 10^3m^3 (33.8 MMcf) per day and 46.9 10^6m^3 (1656.2 MMcf) per year at a maximum from November 1 to April 15 in each year as provided in (i) above; and

(iii) transportation-peaking service (T-PS-M) - 1 195.4 10^3m^3 (42.2 MMcf) per day and 9.0 10^6m^3 (316.5 MMcf) per year at a maximum (uncurtailed) from November 1 to April 15 in each year as provided in (i) above.

MOGC originally applied for amendments to subparagraph 3.2(a) of TCPL's STT Toll Schedules so as to relieve a shipper from paying demand charges in certain circumstances. During the hearing, the Applicant clarified that it was not requesting the Board to make a determination on that issue in this hearing.

By Order No. MH-1-87, the Board set the application down for public hearing. The hearing was held in Winnipeg, Manitoba from 9 to 15 September 1987.

Public Interest and Self-Displacement

While subsection 59(2) of the Act does not contain any specific criteria, the Board, as it indicated at the public hearing, is of the opinion that the test to be employed in considering an application under that subsection is whether the requested order is in the public interest.

Therefore, the Board is of the view that its examination of MOGC's application should focus on the overall public interest, taking into account the conflicting interests identified by the parties to the proceedings. The Board is also of the view that its decision should be consistent with its rulings respecting self-displacement in the RH-5-85 and RH-3-86 Reasons for Decision. Finally, the Board should have regard to its decisions on all previous applications for orders pursuant to subsection 59(2) of the Act. In taking into account these previous decisions, the Board must keep in mind the events surrounding the decisions and the context in which they were rendered.

At the hearing, the Agreement Among the Governments of Canada, Alberta, British Columbia and Saskatchewan on Natural Gas Markets and Prices signed on 31 October 1985 ("the Agreement") was frequently cited as a matter affecting the public interest as well as previous decisions of the Board. In examining the public interest as it relates to this application, the Board believes that due consideration should be given to the Agreement. That consideration must take place in the context of the Board's responsibilities and mandate under the Act, in particular, Part IV of the Act relating to traffic, tolls and tariffs.

The Board notes that the Agreement is not a legal document but a political one; therefore its wording and content must be examined in that light. The Board also notes that it is not an easy task to clearly discern the intent of the parties to an agreement, especially two years after the signing of the document. In examining the Agreement and its intent the Board believes that considerable weight must be given to the testimony of the Alberta Petroleum Marketing Commission ("APMC") witnesses who spoke

on behalf of the Alberta government, the only signatory to the Agreement who appeared before the Board in this proceeding.

Although none of the consuming provinces were signatories to the Agreement, it is the Board's view that the intent of the Agreement is relevant to the overall public interest and that its consideration is inherent in the Board's previous decisions in RH-5-85 and RH-3-86.

The discussion of the Agreement at the hearing focused on whether the MOGC proposal was consistent with the intent of the Agreement and relevant decisions of the Board. The intent of the Agreement as stated in Paragraph 1 is as follows:

"In the Western Accord of March 28, 1985 on Energy Pricing and Taxation, the governments of Canada, Alberta, British Columbia and Saskatchewan agreed that a more flexible and market-oriented pricing regime was required for the domestic pricing of natural gas. The present Agreement is intended to create the conditions for such a regime, including an orderly transition which is fair to consumers and producers and which will enhance the possibilities for price and other terms to be freely negotiated between buyers and sellers."

In summary, the intent is to create the conditions for the orderly transition to a more flexible and market-oriented pricing regime.

Paragraph 7 of the Agreement reads as follows:

"7. To enable the market-responsive pricing system to operate within the intent of this Agreement, the governments request the National Energy Board to review the following concerns:

- i) whether inappropriate duplication of demand charges will result from possible displacement of one volume of gas by another; and*

- ii) whether the policy regarding the availability of T-Service, as outlined in the Board's latest TransCanada PipeLines toll decision is still appropriate, taking into account, among other things, interested parties' views on the fair and equitable sharing of take-or-pay charges."

This paragraph led the Board to convene the RH-5-85 Availability of Services hearing which resulted in, among other things, the removal of the "displacement proviso" to permit "displacement" direct sales and the development of the Operating Demand ("OD") methodology to resolve the problem of "double demand charges" associated with displacement direct sales. These matters relate to the access to natural gas markets through the availability of transportation services regulated by the Board under Part IV of the Act. Taking into consideration the intent of the Agreement as previously stated, access to transportation services was seen as a necessary condition to the achievement of an orderly transition to a more flexible and market-oriented pricing regime. However, consideration of an application for access to transportation services requires that the Board be cognizant of other provisions of the Agreement that may be relevant.

MOGC argued that Paragraph 5 of the Agreement contemplated direct sale arrangements similar to that proposed in its application and that accordingly, its proposal was within the intent of the Agreement. Paragraph 5 provides that:

- "5. Effective November 1, 1985, consumers may purchase natural gas from producers at negotiated prices, either directly or under buy-sell arrangements with distributors, provided distributor contract carriage arrangements are available in respect of such purchases. This provision is in no sense intended to interfere with provincial jurisdiction in regard to regulation of gas distribution utilities."

The Applicant noted that the Agreement contained no wording which restricted the word "consumers" as to the quantity of gas displaced or class of customer, and that there were no restrictions as to the employment of agents or as to the organization of co-operatives. MOGC also argued that the Agreement did not confine direct purchase arrangements to industrial end-users. It was suggested that if MOGC's application were denied, there would be no practical

way for residential consumers to benefit from the market-sensitive prices contemplated in the Agreement.

TCPL, APMC and others opposed to the application argued that transactions in the nature of those proposed by MOGC were not contemplated by the parties to the Agreement. It was submitted that only individual consumers such as large industrial end-users were contemplated as direct sale purchasers because, the majority of small consumers would not have the resources, in any practical sense, to go on a direct sale. TCPL argued that in these markets, market-sensitive pricing involved consideration of prices for alternative energies among other things and not just gas-to-gas competition. These parties also questioned the appropriateness of the MOGC proposal with respect to the intent of the signatories to the Agreement in the context of Paragraphs 13 and 14 of the Agreement. Those paragraphs read as follows:

- "13. Prior to November 1, 1986, negotiations shall commence between distributors, shippers and the producers supplying the gas in question respecting the price to be paid for natural gas delivered under existing contracts. Prices resulting from such negotiations shall come into effect November 1, 1986 and as agreed thereafter. Where contract renegotiation between buyers and sellers, whether of price or volume, takes place in good faith and on a voluntary basis, governments will not obstruct the resulting commercial transactions.
- 14. In the absence of an Agreement between a shipper and a distributor, or a producer and a shipper, on the price to be paid for gas under existing contracts on November 1, 1986, and thereafter, the price shall be determined through arbitration."

The APMC and others argued that the signatories intended that the existing gas supply arrangements continue for the full term of the existing contracts and that these paragraphs were included to provide guidance and direction to the parties as to how the price of gas under those contracts should be determined after the deregulation of gas prices.

MOGC and those supporting the application argued that these paragraphs together with other paragraphs of the Agreement indicated that after 1 November 1986 all consumers were free to negotiate

new supply and transportation arrangements. In particular these parties relied on Paragraphs 3 and 10 of the Agreement which state that:

- "3. *The twelve month period commencing November 1, 1985 is the transition to a fully market sensitive pricing regime. While prices will continue to be prescribed by governments, immediate steps will be taken to enable gas consumers to enter into supply arrangements with gas producers at negotiated prices (direct sales), which prices will then promptly be endorsed by governments in the context of the administered system. After this transition period, purchase and sale of natural gas will be freely negotiated, and prices will no longer be prescribed."*
- "10. *Effective November 1, 1985, a distributor may under new or renegotiated contracts, purchase natural gas from shippers or directly from producers at negotiated prices. Notwithstanding such an arrangement, prior to November 1, 1986, the distributor shall take the full volumes of gas committed under existing contracts before accepting the delivery of any volumes of gas under a new contract."*

The parties opposed to MOGC's application argued that, for the most part, the existing contracts underpinned the entire gas supply for all consumers east of Alberta and that it was inconceivable that it was intended that these contracts be abandoned on 1 November 1986. It was argued that if this was the intent of the signatories, Paragraphs 13 and 14 would not have been included in the Agreement. They urged the Board not to take any action which would undermine the sanctity of the existing contracts because it would be contrary to the orderly transition which is necessary to achieve market-oriented prices.

The arguments made in relation to this matter were similar to those raised before in the RH-5-85 and later the RH-3-86 proceedings in respect of the concept of "self-displacement".

In the RH-5-85 proceeding most distributors argued that they should be allowed to displace their existing CD contracts with direct purchase gas in order to se-

cure the lowest possible prices for their residential and commercial customers. Gaz Métropolitain, inc. and the Procureur général du Québec proposed that all the CD contracts be converted to T-service contracts. The effect of the proposal would have been the total displacement of the then existing firm gas supply arrangements between TCPL and the distributors. At those proceedings, TCPL referred to Paragraphs 13 and 14 of the Agreement and argued that the intent of the Agreement was that all the then existing gas supply contracts continue to be binding on the parties after 1 November 1986.

The Board, in weighing the evidence, concluded as follows:

"In the Board's view, the concept of self-displacement is not within the intent of the Agreement. The Board does not consider it appropriate to order tariff changes which would accommodate self-displacement." (p. 34)

In its RH-3-86 Reasons for Decision the Board provided a generic definition of self-displacement and confirmed its prohibition against self-displacement as follows:

"Generally, self-displacement occurs when a distributor replaces any portion of its presently contracted firm supply with an alternate supply or makes any other arrangement that accomplishes the same end."

Decision

In its May 1986 TCPL Reasons for Decision, the Board rejected the requests of certain distributors to convert all or a portion of their CD entitlement to T-Service and decided that it would be inappropriate to order tariff changes that would accommodate self-displacement. The Board has not altered its view.

The Board's decision does not mean that a distributor is prevented from contracting for additional gas supply. In the Board's view, any new firm direct purchases by a distributor on its own behalf would not qualify it for any relief from its existing firm service obligations." (p. 72)

Chapter 4

Reasons for Decision

In arriving at its decision on this application, the Board believes that the key issue to be addressed is that set out in subparagraph (i) of the List of Issues appended to the Directions on Procedure MH-1-87:

- "i) whether or not the proposed transportation and sale arrangements by Manitoba Oil and Gas Corporation constitute, in form and/or in substance, self-displacement as defined in the Board's Reasons for Decision in RH-5-85 and RH-3-86, i.e.

"Generally, self-displacement occurs when a distributor replaces any portion of its presently contracted firm supply with an alternate supply or makes any other arrangement that accomplishes the same end."

The Board, upon review of the evidence and arguments presented, is of the view that MOGC's proposed transportation arrangements, as applied for, do not, in form, constitute "self-displacement" as defined in the RH-5-85 and RH-3-86 Reasons for Decision in that the Applicant is not a distributor and does not have any existing gas supply that it can self-displace.

In examining whether the MOGC proposed arrangement constitutes "self-displacement" in substance, the Board is guided not only by the words of its former rulings but also by the reasons which led to the decision to prohibit self-displacement. That decision was based on the Board's opinion that "self-displacement is not within the intent of the Agreement" (RH-5-85, p. 34). It is the Board's view that any arrangement which would have the effect of self-displacement would be contrary to the orderly transition to market-sensitive pricing as contemplated by the Agreement and the overall public interest.

To the extent that the Board's decisions on applications for transportation access can contribute to the orderly transition, the Board believes it would be in the public interest to deny those applications which do not further that end. In this regard, the Board notes that the subsection 59(2) Orders which it has

previously issued related to a specific and identifiable end-user whose direct purchase displacement and applied-for access to transportation services did not result in the total displacement of a distributor's market or supply arrangements and did not adversely affect the orderly transition contemplated under the Agreement. The Board also notes that the subsection 59(2) orders issued resulted in displacements in the nature of those contemplated in Section 2.3, "Definition of Displacement" of the RH-5-85 Reasons for Decision.

To determine whether the MOGC application for transportation service, as one of the matters needed to bring about its direct purchase arrangements, constitutes self-displacement in substance, the Board believes it must review the nature and effect of the arrangements proposed. The gas volumes to be transported would in essence displace all volumes presently being purchased by each of the distributors - ICG and GWG - to serve markets in Manitoba. This would effectively result in the total replacement of the distributor's contracted firm supply. Furthermore, this would be the result irrespective of whether it were caused by the distributor or by a third party. The Board also notes that the MOGC witnesses had indicated that it was the policy intent of the government of Manitoba to acquire the existing distributors. Although that has not occurred and may not occur, from the evidence at the hearing the service to the consumers in Manitoba under the MOGC agency proposal would essentially be no different than their current arrangement with the distributor, other than for the gas supply and the commodity price of gas. In the Board's view, the policy intent of the government of Manitoba and the agency relationship itself supports the view that a distributor type relationship between MOGC and the principals would indirectly be developed.

Accordingly, the Board finds that the MOGC proposal, as applied for, constitutes self-displacement in substance and is not in the public interest for the reasons set out in the preceding paragraphs. To decide otherwise would require the Board to conclude that, in its decisions of the past two years, it had

misinterpreted the intent of the Agreement. Those decisions with respect to Part IV matters under the Act were designed to facilitate the orderly transition to a more market-oriented pricing regime. The Board has had no indication from any of the parties to the Agreement that its decisions were not congruent with and complementary to the Agreement. Accordingly, the Board believes that it has interpreted the intent of the Agreement in the manner intended by the signatories.

In determining that the MOGC proposed transportation arrangements constitute self-displacement in substance, the Board has noted the arguments of MOGC and parties in support of the application that there is no self-displacement, or that self-displacement should be permitted, if no OD relief is being sought and that such "displacements" would be consistent with the Board's previous decisions.

The Board does not agree with the position taken in this regard. If self-displacements of the nature contemplated were to be permitted, the distributors and MOGC would each have a call on pipeline capacity up to the maximum of their daily demand. Insofar as the gas supply of one party in effect replaces that of the other to serve the same market, only one of the transportation services is really needed. Thus, with each party paying demand charges the result is that demand charges are essentially paid twice for pipeline capacity to meet the same requirement. Such duplication of demand charges would be similar to the "double demand charges" that the Board found to be inappropriate in its RH-5-85 decision. The Board also found in that decision that such "double demand charges promote an inefficient allocation of pipeline capacity as space is reserved for daily demand that will not be used" (p. 8). In addition, one of the duplicate daily demands could end up

being used as a peaking service and/or a backstopping service which, in the Board's view, would artificially affect a comparative analysis of the economics of alternatives such as storage facilities and peak shaving. At the same time, duplicate amounts of gas supply would have to be held in reserve by the two parties' suppliers for the same market to be served.

One other issue that the Board believes it should address is the suggestion that denial of this application would result in unjust discrimination in terms of access to the transportation services of the TCPL system. As noted previously, the Board does not consider this application to be similar to other subsection 59(2) applications approved by the Board. The effect of granting this application would be to permit self-displacement, which would not be consistent with the orderly transition to market-sensitive pricing as contemplated in the Agreement and would be contrary to the public interest.

In view of the foregoing the Board believes it would be inappropriate to grant MOGC's request to order TCPL to provide STT service. The Board also believes that it would not be appropriate to order the provision of the T-TWS and T-PS services requested because these services normally supplement firm service requirements and as such, would normally not stand alone. With respect to the IS service requested, the Board is concerned that if it were to grant the service, it would be possible for such service to be substituted for the firm service requirements of the existing distributors which would in effect contribute to self-displacement. It is the Board's view that the level and mix of transportation services requested by MOCG would, in substance, result in the self-displacement of the existing distributor's supply arrangements.

Chapter 5

Disposition

For the foregoing reasons, the Board is of the view that it would not be in the public interest to grant MOGC's application for orders of the Board pursuant to subsection 59(2) of the Act. Accordingly, the application is denied.

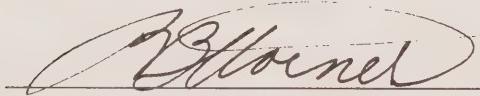
The foregoing constitute our Reasons for Decision and our Decision on this matter.



A.B. Gilmour
Presiding Member



J. Farmer
Member



R.B. Horner, Q.C.
Member

Ottawa, Canada
September 1987

Appendix I

File No.: 1540-M72

28 July 1987

Mr. Richard G. Shead
Solicitor
Buchwald Asper Henteleff
25th Floor
Commodity Exchange Tower
360 Main Street
Winnipeg, Manitoba
R3C 4H6

Dear Mr. Shead:

*Re: Manitoba Oil and Gas Corporation Section
59(2) Application Dated 25 May 1987*

The Board has considered the above noted application and has issued the attached Directions on Procedure regarding the application.

The Board believes that a public hearing is the most appropriate process to deal with the application for final orders. The Board is not prepared on the basis of the evidence before it to grant your request for interim orders.

Yours truly,

J.S. Klenavic,
Secretary.

Attach.

c.c. Parties Listed in Paragraph 12
of the Attached Directions on Procedure

Hearing Order MH-1-87 Directions on Procedure

Manitoba Oil and Gas Corporation Application for Orders Directing TransCanada PipeLines Limited to Receive, Transport and Deliver Natural Gas and Fixing Tolls

By application dated 25 May 1987, as amended on 6 July 1987, Manitoba Oil and Gas Corporation ("MOGC" or "the Applicant"), as agent for and on behalf of residential, commercial and industrial consumers of natural gas in Manitoba, as may be designated by the Lieutenant Governor in Council for the Province of Manitoba, has applied to the National Energy Board ("the Board") for orders directing TransCanada PipeLines Limited ("TCPL") to receive, transport and deliver natural gas offered by MOGC for consumption in Manitoba and fixing the just and reasonable tolls that TCPL may charge for such services. MOGC also applied for amendments to subparagraph 3.2(a) of TCPL's Short Term T-Toll Schedules so as to relieve a shipper from paying demand charges in certain circumstances.

Having considered the application, the Board decided on 28 July 1987 to hold a public hearing commencing on 9 September 1987 in Winnipeg, Manitoba. The Board directs as follows:

Request for Operating Demand Volume Reduction

1. Greater Winnipeg Gas Company and ICG Utilities (Manitoba) Ltd., the affected distributors, shall file with the Board and serve on the Applicant by 6 August 1987, any requests for operating demand volume reductions that may be required should the Board approve the application by MOGC.
2. The affected distributors shall serve all interested parties with a copy of any such requests

for operating demand volume reductions when the Board issues the list of interested parties pursuant to paragraph 5.

Public Viewing

3. The Applicant shall deposit and keep on file, for public inspection during normal business hours, a copy of the application in its office at 870 Eaton Place, 330 Graham Avenue, Winnipeg, Manitoba.

A copy of the application is also available for viewing in the Board's Library, Room 962, 473 Albert Street, Ottawa, Ontario and at the Board's office at 4500 - 16th Avenue N.W., Calgary, Alberta.

Interventions

4. Interventions are required to be filed with the Secretary and served on MOGC by 12 August 1987. Interventions should include all the information set out in subsection 32(1) of Part III to the revised NEB *Draft Rules of Practice and Procedures* dated 21 April 1987.
5. The Secretary will issue a list of intervenors shortly after 12 August 1987.

Information Requests

6. Information requests addressed to any party shall be filed with the Secretary and served on all other parties to the proceeding by 25 August 1987.
7. Responses to information requests received within the specified time limit shall be filed with the Secretary and served on all other parties to the proceeding by 2 September 1987.

Written Evidence

8. Any additional written evidence that MOGC wishes to present shall be filed with the Secretary and served on all other parties to the proceeding by 13 August 1987.
9. Intervenors' written evidence shall be filed with the Secretary and served on all other parties to the proceeding by 19 August 1987.

Letters of Comment

10. Letters of comment shall be filed with the Secretary and served on MOGC by 21 August 1987.

Hearing

11. The public hearing will commence in the Galaxy 1 room of The Delta Winnipeg, 288 Portage Avenue, on Wednesday, 9 September 1987 at 9:30 a.m. local time.

Service on Parties

12. The Board will arrange to serve a copy of these Directions on Procedure and the Notice of Hearing, attached as Appendix I, forthwith on the parties listed in Appendix IV and the interested parties pursuant to Order RH-3-86.

Notice of Hearing

13. The publications in which MOGC is required to publish the Notice of Hearing, attached as Appendix I, are listed in Appendix II.

List of Issues

14. The Board intends to examine, but does not limit itself to, the issues specified in Appendix III.

Filing and Service Requirements

15. Where parties are directed by these Directions on Procedure or by the revised NEB *Draft Rules of Practice and Procedure* to file or serve documents on other parties, the following number of copies shall be served or filed:
 - (1) for documents to be filed with the Board, provide 30 copies;
 - (2) for documents to be served on the Applicant, provide 3 copies;
 - (3) for documents to be served on intervenors, provide 1 copy.
16. Parties filing or serving documents at the hearing shall file or serve the numbers of copies specified in the preceding paragraph.
17. Persons filing letters of comment should serve one copy on MOGC and file one copy with the

- Board, which in turn will provide copies for all other parties.
18. Parties filing or serving documents fewer than five days prior to the commencement of the hearing shall also bring to the hearing a sufficient number of copies of the documents for use by the Board and other parties present at the hearing.
21. These Directions supplement the revised NEB Draft Rules of Practice and Procedure dated 21 April 1987.
22. For information on this hearing, or the procedures governing the hearing, contact Mr. Denis Tremblay, Regulatory Support Officer, at (613) 998-7199.

Simultaneous Interpretation

19. All parties are requested to indicate in their interventions the official language they intend to use at the hearing. If it appears that both languages will be used, simultaneous interpretation will be provided.

General

20. All parties are asked to quote Hearing Order number MH-1-87 when corresponding with the Board in this matter.

J.S. Klenavic
Secretary

**APPENDIX I
to Order No. MH-1-87**

File Number 1540-M72

OTTAWA, 28 July 1987

**National Energy Board
Hearing Order MH-1-87
Notice of Public Hearing**

**Manitoba Oil and Gas Corporation
Application for Orders Directing
TransCanada PipeLines Limited
to Receive, Transport and Deliver Natural Gas
and Fixing Tolls**

The National Energy Board ("the Board") will conduct a public hearing into an application dated 25 May 1987, as amended on 6 July 1987, from Manitoba Oil and Gas Corporation ("MOGC" or "the Applicant"), as agent for and on behalf of residential, commercial and industrial consumers of natural gas in Manitoba as may be designated by the Lieutenant Governor in Council for the Province of Manitoba, for orders directing TransCanada PipeLines Limited ("TCPL") to receive, transport and deliver natural gas offered by MOGC for consumption in Manitoba and fixing the just and reasonable tolls that TCPL may charge for such services. MOGC also applied for amendments to subparagraph 3.2(a) of TCPL's Short Term T-Toll Schedules so as to relieve a shipper from paying demand charges in certain circumstances.

The hearing will be public and will be held to obtain the evidence and relevant views of interested parties on the application. The hearing will commence in the Galaxy 1 room of The Delta Winnipeg at 288 Portage Avenue on Wednesday, 9 September 1987 at 9:30 a.m. local time.

Anyone wishing to intervene in the hearing must file a written intervention with the Secretary of the Board and serve a copy on MOGC at the following address:

President
Manitoba Oil and Gas Corporation
870 Eaton Place
330 Graham Avenue
Winnipeg, Manitoba
R3C 4A5

and its counsel

Mr. Richard Shead
Buchwald, Asper Henteleff
2500 - 360 Main Street
Winnipeg, Manitoba
R3C 4H6

MOGC will provide a copy of the application to each intervenor.

The deadline for receipt of written interventions is 12 August 1987. The Secretary will then issue a list of intervenors.

Anyone wishing only to comment on MOGC's application should write to the Secretary of the Board and send a copy to MOGC and its counsel at the above addresses by 21 August 1987.

Information on the procedures for this hearing (Hearing Order MH-1-87) or the revised NEB *Draft Rules of Practice and Procedure* governing all hearings (both documents are available in English and French) may be obtained by writing to the Secretary or telephoning the Board's Regulatory Support Office at (613) 998-7204.

John S. Klenavic
Secretary
National Energy Board
473 Albert Street
Ottawa, Ontario
K1A 0E5
Telex: 0533791
Telecopier: (613) 990-7900

**APPENDIX II to
Order No. MH-1-87**

**APPENDIX III to
Order No. MH-1-87**

LIST OF PUBLICATIONS

Publications	City
"Times Colonist"	Victoria, British Columbia
"Sun", "Vancouver Province" and "Le Soleil de Colombie"	Vancouver, British Columbia
"Herald" & "Sun"	Calgary, Alberta
"The Edmonton Journal" and "Le Franco-Albertain"	Edmonton, Alberta
"The Leader-Post" and "Journal l'eau-vive"	Regina, Saskatchewan
"Winnipeg Free Press"	Winnipeg, Manitoba
"La Liberté"	St. Boniface, Manitoba
"The Globe and Mail", "Star", "Financial Times of Canada", "The Financial Post" and "L'Express"	Toronto, Ontario
"The Ottawa Citizen" and "Le Droit"	Ottawa, Ontario
"The Gazette", "Le Devoir" and "La Presse"	Montreal, Quebec
"Le Soleil" and "Le Journal de Québec"	Québec, Quebec
Canada Gazette	Ottawa, Ontario

LIST OF ISSUES

The Board intends to examine, but does not limit itself to the following issues:

- i) whether or not the proposed transportation and sale arrangements by Manitoba Oil and Gas Corporation constitute, in form and/or in substance, self-displacement as defined in the Board's Reasons for Decision in RH-5-85 and RH-3-86, i.e.
"Generally, self-displacement occurs when a distributor replaces any portion of its presently contracted firm supply with an alternate supply or makes any other arrangement that accomplishes the same end."
(RH-3-86 Reasons for Decision, Section 11.2, p. 72);
- ii) if the proposed transportation and sale arrangements do not constitute self-displacement and the Board issues a 59(2) Order, what level of Operating Demand Volume relief should be provided to the affected distributors, Greater Winnipeg Gas Company and ICG Utilities (Manitoba) Ltd.;
- iii) if the Board issues a 59(2) order, what terms and conditions should be included in such an order; and
- iv) the appropriateness of the amendment to paragraph 3.2(a) of TransCanada PipeLines Limited's Short Term T-Toll Schedules as requested by the Manitoba Oil and Gas Corporation in paragraph 9(e) of the application. This amendment would have the effect of relieving a shipper from paying demand charges in certain circumstances.

**APPENDIX IV to
Order No. MH-1-87**

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Ministry of Energy, Mines and Petroleum Resources
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Manitoba Sugar Company
c/o B.C. Sugar Refining Company Limited
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Vice President, Corporate Secretary
Canadian Gas Association
55 Scarsdale Road
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Parties to the TransCanada PipeLines Limited
Toll Hearing Held Pursuant to Board Order
No. RH-3-86

Canadä